

FILED  
Clerk  
District Court

NOV 15 2007

PROB 12B  
(7/93)

*United States District Court*

for

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

*District of the Northern Mariana Islands*

**Report for Modifying the Conditions or Term of Supervision  
with Consent of the Offender**  
(Probation Form 49, Waiver of Hearings is Attached)

Name of Offender: **Jesus A. Aldan** Case Number: **CR 99-00045-001**

Name of Sentencing Judicial Officer: **Honorable Alex R. Munson**

Date of Original Sentence: **February 8, 2000**

Original Offense: **Count I - Conspiracy to Distribute Methamphetamine, 21 U.S.C. §§ 841(a)(1) and 846  
Count II - Possession with Intent to Distribute Methamphetamine, 21 U.S.C. §  
841(a)(1)**

Original Sentence: **18 months imprisonment for each count to run concurrently and six years supervised  
release with the following conditions: not commit another federal, state, or local crime;  
comply with the standard conditions of supervised release as set forth by the U.S.  
Sentencing Commission; not possess a firearm or other dangerous weapon; submit to one  
urinalysis with 15 days of release, and submit to at least two additional urinalyses  
thereafter, not to exceed 60 days; participate in a program approved by the U.S. Probation  
Office for treatment of narcotic addiction or drug or alcohol dependancy with will include  
testing for the detection of substance use or abuse; refrain from the use of alcohol; seek  
and maintain gainful employment; complete 500 hours of community service under the  
direction of the U.S. Probation Office; and pay a \$200 special assessment fee. **Revoked  
on June 27, 2005** and sentenced to 30 months imprisonment followed by 42 months of  
supervised release, with all previously ordered conditions to remain in effect, which will  
include an additional 200 hours of community service.**

Type of Supervision: Supervised Release Date Supervision Commenced: August 31, 2007

**PETITIONING THE COURT**

☐ To extend the term of supervision for \_\_\_\_\_ years, for a total term of \_\_\_\_\_ years.

☒ To modify the conditions of supervision as follows:

1. The defendant shall refrain from any unlawful use of a controlled substance.  
The defendant shall submit to one drug test within 15 days of release from  
imprisonment and at least two periodic drug tests thereafter, not to exceed eight  
tests per month, as directed by the probation officer.

Report for Modifying the  
Conditions or Term of Supervision  
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CAUSE

On September 2, 2005, the Ninth Circuit, in United States v. Stephens, No. 04-50170, addressed 18 U.S.C. § 3583(d) supervised release and 18 U.S.C. § 3563(a)(5) probation mandatory testing conditions which requires that the district court determine the maximum number of mandatory drug tests. The Ninth Circuit held that because the statute requires the district court to determine the maximum number of drug tests under the mandatory condition, transferring this duty to the probation officer was an improper delegation of Article III judicial power.

To assist the Court in determining the appropriate number of drug tests, the undersigned officer has evaluated Mr. Aldan's history of drug use, and the drug detection period of his drug of choice. As methamphetamine is considered one of the drugs of choice and has a normal detection period of four days or less, it is recommended that the maximum number of tests the court order per month be set at eight. This will allow for adequate time intervals between tests which will help facilitate the detection of use. It also provides for enough additional tests so that the pattern of testing will not be predictable to the offender.

To address the implications of United States v. Stephens Ninth Circuit No. 04-50170, it is respectfully requested that the Court modify Mr. Aldan's mandatory condition to set the maximum number of tests he must submit. It is therefore recommended that the mandatory condition be modified as follows:

"The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer."

Mr. Aldan has agreed to the above modification and attached is a Probation From 49 Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision with her consent.

Reviewed by:

CARMEN D. O'MALLAN

U.S. Probation Officer Specialist  
Supervision Unit Leader

Date:

Respectfully submitted,

by:

MELINDA N. BRUNSON

U.S. Probation Officer

Date:

11/15/07

**THE COURT ORDERS**

- ☐ No Action
- ☐ The Extension of Supervision as Noted Above.
- ☒ The Modification of Conditions as Noted Above.

☐ Other      Issuance of a:    ☐ Summons    ☐ Warrant

*Alex R. Munson*

Alex R. Munson  
Chief Judge

District Court of the Northern Mariana Islands

11-15-07

Date

PROB 49  
(3/89)

*United States District Court*

for


*District of Northern Mariana Islands*

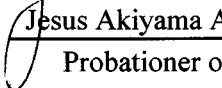
**Waiver of Hearing to Modify Conditions  
of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

That the defendant shall refrain from any unlawful use of a controlled substance, and shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer;

  
Witness: Melinda N. Brunson  
U.S. Probation Officer

  
Signed: Jesus Akiyama Aldan  
Probationer or Supervised Releasee

November 5, 2007

Date